

Decision 05-02-019 February 10, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AmericanStar Tours for Authority for an extension of authority as a Passenger Stage Corporation Between Points in San Luis Obispo, Santa Barbara, Ventura, Monterey, Santa Clara, Alameda, San Francisco, Fresno, Kings, Los Angeles, Tulare, Kern counties and to Establish a Zone of Rate Freedom.

Application 02-10-004
(Filed October 7, 2002)

O P I N I O N

Summary

This decision grants the application of AmericanStar Tours, Inc. (Applicant), a corporation, pursuant to Pub. Util. Code § 1031 et seq., to modify its certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

Applicant is authorized by Decision (D.) 01-04-018 to operate as a schedule PSC to transport passengers and their baggage between Santa Barbara and San Francisco and between Paso Robles and Los Angeles. In conjunction with its scheduled service, Applicant is also authorized to provide on-call service between points in San Luis Obispo and northern Santa Barbara Counties and any service point on its scheduled routes.

The application as originally filed requested authority to add a scheduled service between Guadalupe and Fresno and to make minor changes to

Applicant's existing scheduled services. By letter dated December 16, 2004, Applicant advises that it wants to limit its request to adding Long Beach Harbor to its Paso Robles to Los Angeles service. Applicant informs staff of the Consumer Protection and Safety Division that it no longer wishes to add a scheduled route between Guadalupe and Fresno because further analysis shows insufficient demand to justify the proposed service. Applicant does, though, wish to include Long Beach Harbor in its certificate because it receives requests to serve that point from cruise ship passengers.

Applicant also requests authority to establish a ZORF of \$10 above and below current fares under \$30 and \$15 above and below fares \$30 and higher. Applicant will compete with other PSCs, Amtrak, taxicabs, limousines, and private automobiles in its service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on October 10, 2002. In Resolution ALJ 176-3098 dated October 24, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3098.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Applicant is currently authorized pursuant to D.01-04-018 to operate as a scheduled and on-call PSC.
2. The application, as amended, requests authority to add Long Beach Harbor to Applicant's Paso Robles to Los Angeles service.
3. Public convenience and necessity requires the proposed additional service.
4. Applicant requests authority to establish a ZORF of \$10 above and below its fares under \$30 and \$15 above and below fares \$30 and higher.
5. Applicant will compete with other PSCs, Amtrak, taxicabs, limousines, and private automobiles in its operations. The ZORF is fair and reasonable.
6. No protest to the application has been filed.
7. A public hearing is not necessary.
8. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application, as amended, should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. The certificate of public convenience and necessity (CPCN) granted to AmericanStar Tours, Inc. (Applicant), a corporation, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage between the points and over the routes set forth in Appendix PSC-8118 of Decision 01-04-018, is revised by replacing Original Page 4 with First Revised Page 4, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.

- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
 - h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
- 3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$10 above and below current fares under \$30 and \$15 above and below current fares \$30 and higher.
- 4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
- 5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.
- 6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.
- 7. Applicant is authorized to begin operations to the additional service point on the date that the Consumer Protection and Safety Division mails a notice to Applicant that it has completed the requirements of Ordering Paragraph 2.
- 8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.
- 9. The revised CPCN to operate as PSC-8118, granted herein, expires unless exercised within 120 days after the effective date of this order.
- 10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated February 10, 2005, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

SUSAN P. KENNEDY

DIAN M. GRUENEICH

Commissioners

*SECTION III. ROUTE DESCRIPTIONS (concluded).

B. SCHEDULED SERVICE (Concluded)

Route 2 – Paso Robles / Los Angeles

Commencing from any point in Paso Robles°, then over the most convenient streets and highways to Atascadero°, Cal Poly San Luis Obispo°, San Luis Obispo, Grover Beach, Santa Maria, Lompoc°, Buellton/Solvang, Santa Barbara Airport, Carpinteria, Ventura, Oxnard, Camarillo, Los Angeles International Airport, Los Angeles/San Pedro Harbor, and Long Beach Harbor.

° By Reservation Only.